

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**WILBERT BROWN**

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**CASE NUMBER 1:16-CR-00074-5-MAC**

**REPORT AND RECOMMENDATION ON  
THE DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States magistrate judge.

On November 13, 2020, the Defendant filed a motion seeking a psychiatric or psychological exam to determine if the Defendant was suffering from a mental disease or defect rendering him mentally incompetent to the extent he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, and the court granted that motion on November 16, 2020. (Doc. No. 213, 215.) The Defendant was subsequently evaluated by Dr. Jessica Micono, Psy.D., Licensed Forensic Psychologist at the Federal Correctional Institution in Littleton, Colorado and found competent.

Dr. Micono's psychiatric report concludes that the Defendant "is not currently suffering from a mental disease or defect rendering him unable to understand the nature and consequences

of the proceedings against him or to properly assist in his defense. It is this evaluator's opinion that Mr. Brown is presently competent to proceed." (Doc. No. 218.)

A competency hearing was conducted on July 26, 2021. At the hearing, the Defendant appeared in court with his counsel, Gary Bonneaux. Neither the Government nor the defense objected to the psychological report's results and findings.

The undersigned concludes that the Defendant is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. The Defendant has a rational and factual understanding of the proceeding against him, and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. § 4241(d); *see also Dusky v. United States*, 362 U.S. 402 (1960)

### **RECOMMENDATION**

The court should find the Defendant competent to stand trial because he understands the nature and consequences of the proceeding against him and is able to assist in his defense. *See* 18 U.S.C. § 4241. It is further recommended that the speedy trial time be excluded from November 13, 2020 (the date the Defendant filed an Unopposed Motion for Psychiatric Exam), until the date on which the District Judge signs the order adopting this report and recommendation.

### **OBJECTIONS**

At the close of the competency hearing, the Defendant, defense counsel, and counsel for the government each orally waived their right to object to the proposed findings and recommendations contained in this report and consented as to the Defendant's competency. Therefore, the court may act on this report and recommendation immediately.

SIGNED this 26th day of July, 2021.

  
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Zack Hawthorn  
United States Magistrate Judge